

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

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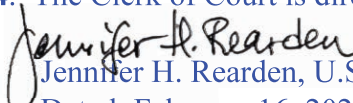
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February 15, 2024

BY ECF

Hon. Jenifer H. Rearden
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Application GRANTED. Defendants' deadline to answer or otherwise respond to the Complaint is extended *nunc pro tunc* to **Friday, March 15, 2024**. The parties' deadline to submit the joint letter is extended to **Friday, March 8, 2024**. The Clerk of Court is directed to terminate ECF No. 13. SO ORDERED.


Jennifer H. Rearden, U.S.D.J.
Dated: February 16, 2024

Re: *L.H. v. New York City Dep't of Educ., et al.*, 23-cv-10955 (JHR)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for Defendants the New York City Department of Education ("DOE"), DOE Chancellor David Banks, the New York City Board of Education ("BOE") and the City of New York (hereinafter "Defendants") in the above-referenced action.

I write to respectfully request an extension of time from February 15, 2024, to respond to the Complaint. This is the Defendants' first request for an extension of time. Counsel for Plaintiffs, Elisa Hyman, Esq., has advised that Plaintiffs do not object provided that their consent is without waiver of their position that there is irreparable harm present that may require them to seek emergency relief before Defendants' answer, and Defendants agree not to raise Plaintiff's consent as a grounds to argue that there is no irreparable harm if any emergency motion is filed, although they reserve all other defenses. I also write jointly with Plaintiff to request an extension of time from February 19, 2024, for the parties to submit their joint letter as directed by the Court."

By way of background, on December 27, 2023, the Court issued an Order (ECF No.8) directing the parties to file a joint letter no later than 2 weeks from its date and Plaintiff to file proof of service within 2 days. Plaintiffs served their Complaint alleging violations of Plaintiffs' rights under the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400, et seq., Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 ("Section 504"), 42 U.S.C. § 1983 ("Section 1983"), and New York Law on January 25, 2024, and filed proof of service (ECF

No.9). Plaintiffs requested an extension of time to February 19, 2024, for the parties to file the joint letter (ECF No. 10). The Court issued an order on January 31, 2024, granting Plaintiffs' request (ECF No. 11).

Pursuant to this Court's Individual Rules and Practices 2(E), Defendants are late in submitting this request for an extension of time to respond to the Complaint. Due to an error in calendaring, the deadline to submit our response to the Complaint and the corresponding deadline to seek a necessary adjournment were entered incorrectly into my calendar. I apologize to the Court and to the Plaintiffs for this unintentional conduct. I have taken appropriate measures to ensure that this error does not occur again and kindly ask the Court to grant this request. The reason for the extension of time is to allow this office to investigate the legal and factual allegations and to obtain and review all necessary documents and prepare an appropriate response to the Complaint.

I also seek jointly with Plaintiffs, an extension of the February 19, 2024, deadline to submit the joint letter. This adjournment is being made to give the parties an opportunity to obtain and review additional documents including the necessary administrative record from the Office of the State Review. The parties agree that more time will allow for in-depth and meaningful discussion regarding the allegations set forth in the Complaint, and to explore whether there is an opportunity for settlement, avoiding unnecessary litigation. The parties propose the deadline to submit the joint letter be extended until March 8, 2024. Further, Plaintiffs have advised that there has been an issue with the student not receiving all of his stay-put services pursuant to 20 U.S.C. §1415(j), and the parties would like time to try to resolve that issue and avoid an emergency action, such as a TRO.

Accordingly, Defendants respectfully request that the Court grant an extension of time until March 15, 2024, to respond to the Complaint.

The parties thank the Court for its time and consideration in this matter.

Respectfully submitted,

/s/

Kevon Z.A. Weekes
Assistant Corporation Counsel

cc: All counsel of record (via ECF)